

REMARKS

This application has been carefully reviewed in light of the Office Action dated October 31, 2007. Claims 1, 5, 7--18 remain in this application. Claim 1 is the independent Claim. Claims 1, 5, 7-12, 14-16 have been amended. Claims 17- 18 are the New Claims. Support for the amendment to Claim 1 is found, *inter alia*, in FIG. 1, and Sample No. 5 of the present application. Support for the New Claims is found, *inter alia*, on page 24 of the present specification.

It is believed that no new matter is involved in the amendments or arguments presented herein. Reconsideration and entrance of the amendment in the application are respectfully requested.

Claim Objections

Claims 5, 7-12, and 14-16 were objected to for certain informalities. In response, applicant has amended these claims to address the objections.

Reconsideration and withdrawal of the above objection are respectfully requested.

Double Patenting Rejections

Claim 1 was provisionally rejected on the ground of nonstatutory double patenting over Claim 20 of copending Application No. 10/529,333.

In response, Applicant is concurrently filing a Terminal Disclaimer. Reconsideration and withdrawal of the above rejection is respectfully requested.

Non-Art Based Rejections

Claims 1, and 8-10 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness.

With respect to Claims 8-10, Applicant has amended those claim to address the concern expressed in the Office Action.

With respect to Claim 1, Applicant respectfully traverses the rejection and submits that the term “substantially” does not render the claim indefinite.

MPEP §2172.05(b) specifically points out that:

The term “substantially” is often used in conjunction with another term to describe a particular characteristic of the claimed invention. It is a broad term. *In re Nehrenberg*, 280 F.2d 161, 126 USPQ 383 (CCPA 1960). The court held that the limitation “to substantially increase the efficiency of the compound as a copper extractant” was definite in view of the general guidelines contained in the specification. *In re Mattison*, 509 F.2d 563, 184 USPQ 484 (CCPA 1975). The court held that the limitation “which produces substantially equal E and H plane illumination patterns” was definite because one of ordinary skill in the art would know what was meant by “substantially equal.” *Andrew Corp. v. Gabriel Electronics*, 847 F.2d 819, 6 USPQ2d 2010 (Fed. Cir. 1988). MPEP 2172.05(b).

In other words, the MPEP recognizes that the terms “substantially” is in fact often used in claim language, as it is used here. This is no surprise. The Oxford Dictionary defines “substantially” to mean “to a great or significant extent, for the most part; or essentially.” (<http://www.askoxford.com/?view=uk>). As a result, one of ordinary skill in the art would clearly understand that what the term “substantially MnO,” as used in the claims of the present invention, means.

In the *Andrew Corp.* case, cited in the above MPEP section, the Federal Circuit recognized that the term “substantial” is definite even if some experimentation is required to determine a more specific amount. *Andrew Corp. v. Gabriel Electronics, Inc.* 847 F.2d 819, 821-822 (Fed. Cir. 1988). In fact, the Federal Circuit has repeatedly made clear that such “imprecise claim limitation[s]...do[] not impart invalidity to the

claims, but [are] to be considered in determination of infringement.” *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 842 F.2d 1275, 1280 (Fed.Cir.1988). Recognizing this, the Manual of Patent Examining Procedure instructs examiners in a similar vein. See MPEP § 2173.02:

[Examiner] should allow claims which define the patentable subject matter with a reasonable degree of particularity and distinctness. Some latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire..

As the *Andrew Corp.* court concluded: “Neither the record nor the law supports Gabriel's position that one of ordinary skill in the art would not know when the RPEs were ‘substantially equal’ or ‘closely approximate’.

The district court's ruling is contrary to authority, and the holding of invalidity on this ground is reversed.” *Id.*

Here, the specification of the present Application makes clear the context in which the phrase “substantially MnO” is used in Claim 1. For example, On page 15, lines 11-13, it states:

The ferrite material of the present invention contains, as a main constituent, MnO as the substantial balance in addition to the above described constituents.

Accordingly, the phrase “substantially MnO” does not render the claim indefinite since one of ordinary skill in the art is aware of the ordinary meaning of the term, as well as its use in the context of this invention. Under such circumstances, the meaning of the term would not be indefinite to one of ordinary skill in the art, a rejection of indefiniteness would therefore be inappropriate.

Reconsideration and withdrawal of the above rejection of Claim 1 are therefore respectfully requested.

Art-Based Rejections

Claims 1, 5, 7-13, and 15-16 were rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) over JP 06-310321 (Matsutani); Claim 14 was rejected under §103(a) over Matsutani; Claims 1, 5, 7-13, and 15-16 were rejected under §103(a) over JP 11-003813 (Kono).

Applicant respectfully traverses the rejections and submits that the claims herein are patentable in light of the clarifying amendments above and the arguments below.

The Matsutani Reference

Matsutani is directed to an oxide magnetic substance and claims an NiO amount as being 0.005 to 0.5 wt%. (*See, Matsutani, Abstract; Claim 1*).

The Kono Reference

Kono is directed to a ferrite material that mixes NiO and CoO in the fundamental component of an Mn-Zn ferrite. (*See, Kono, Abstract*.)

The Claims are Patentable Over the Cited References

The present application is generally directed to ferrite material.

As defined by amended independent Claim 1, a ferrite material including a sintered body includes as main constituents, 62 to 68 mol % of Fe₂O₃, 12 to 20 mol % of ZnO, 1.5 to 5 mol % of NiO, and the balance being substantially MnO. The saturation magnetic flux density thereof at 100°C. is 450 mT or more (magnetic field for measurement: 1194 A/m), and the minimum core loss value thereof is 1200 kW/m³ or less (measurement conditions: 100 kHz, 200 mT).

The applied references fail to disclose or suggest the above features of the claims of the present invention. In particular, the applied references fails to disclose or suggest "A ferrite material comprising...1.5 to 5 mol % of NiO..., as required by amended independent Claim 1 of the present invention.

As noted above, Matsutani discloses an NiO amount as being 0.005 to 0.5 wt%, which corresponds to 0.009 to 0.9 mol%. In contrast, amended independent Claim 1 of the present application defines the NiO amount as being 1.5 to 5 mol%.

Kono does not remedy the above discussed deficiencies of Matsushita and, referring to the Table 1 of Kono, none of the examples disclose the composition defined by amended independent Claim 1 of the present invention

Since the cited reference fails to disclose, teach or suggest the above features recited in amended independent Claim 1, these references cannot be said to anticipate nor render obvious the invention which is the subject matter of those claims.

Accordingly, amended independent Claim 1 is believed to be in condition for allowance and such allowance is respectfully requested.

The remaining claims depend either directly or indirectly from amended independent Claim 1 and recite additional features of the invention which are neither disclosed nor fairly suggested by the applied references and are therefore also believed to be in condition for allowance and such allowance is respectfully requested.

Conclusion

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los

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Angeles, California telephone number (310) 785-4721 to discuss the steps necessary for placing the application in condition for allowance.

If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-1314.

Respectfully submitted,
HOGAN & HARTSON L.L.P.

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By: 
Dariush G. Adli
Registration No. 51,386
Attorney for Applicant(s)

1999 Avenue of the Stars, Suite 1400
Los Angeles, California 90067
(Telephone) (310) 785-4600
(Facsimile) (310) 785-4601